

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

JAMES W. RILEY,	)
	)
Plaintiff,	)
	)
v.	)
	)
STANLEY TAYLOR, THOMAS	)
CARROLL, DAVID PIERCE, AMY	)
MUNSON, MEDICAL ASSISTANT	)
MALANEY, CORRECTIONAL	)
MEDICAL SYSTEMS, FIRST	)
CORRECTIONAL MEDICAL,	)
	)
Defendants.	)

**ANSWER OF DEFENDANTS, CORRECTIONAL MEDICAL SERVICES, INC.  
(incorrectly designated as "Correctional Medical Systems") AND CHRISTINE  
MALANEY TO PLAINTIFF'S ORIGINAL COMPLAINT AND AMENDED  
COMPLAINT WITH AFFIRMATIVE DEFENSES AND CROSSCLAIM**

**FIRST CLAIM OF DENIAL OF MEDICAL TREATMENT**

- (a) Answering defendants deny the allegations in paragraph IV(a) in plaintiff's original Complaint and Amended Complaint and demand strict proof thereof at time of trial.
- (b) Answering defendants deny the allegations in paragraph IV(b) in plaintiff's original Complaint and Amended Complaint and demand strict proof thereof at time of trial.
- (c) Answering defendants deny the allegations in paragraph IV(c) in plaintiff's original Complaint and Amended Complaint and demand strict proof thereof at time of trial.

**SECOND CLAIM OF DENIAL OF MEDICAL TREATMENT**

- (d) Answering defendants deny the allegations in paragraph IV(d) in plaintiff's original Complaint and Amended Complaint and demand strict proof thereof at time of trial.
- (e) Answering defendants deny the allegations in paragraph IV(e) in plaintiff's original Complaint and Amended Complaint and demand strict proof thereof at time of trial.

(f) Answering defendants deny the allegations in paragraph IV(f) in plaintiff's original Complaint and Amended Complaint and demand strict proof thereof at time of trial.

(g) Answering defendants deny the allegations in paragraph IV(g) in plaintiff's original Complaint and Amended Complaint and demand strict proof thereof at time of trial.

(h) Answering defendants deny the allegations in paragraph IV(h) in plaintiff's original Complaint and Amended Complaint and demand strict proof thereof at time of trial.

(i) Answering defendants deny the allegations in paragraph IV(i) in plaintiff's original Complaint and Amended Complaint and demand strict proof thereof at time of trial.

#### **THIRD CLAIM OF DENIAL OF MEDICAL TREATMENT**

(j) Answering defendants deny the allegations in paragraph IV(j) in plaintiff's original Complaint and Amended Complaint and demand strict proof thereof at time of trial.

(k) Answering defendants deny the allegations in paragraph IV(k) in plaintiff's original Complaint and Amended Complaint and demand strict proof thereof at time of trial.

(l) Answering defendants deny the allegations in paragraph IV(l) in plaintiff's original Complaint and Amended Complaint and demand strict proof thereof at time of trial.

(m) Answering defendants deny the allegations in paragraph IV(m) in plaintiff's original Complaint and Amended Complaint and demand strict proof thereof at time of trial.

#### **FOURTH CLAIM OF DENIAL OF MEDICAL TREATMENT**

(n) Answering defendants deny the allegations in paragraph IV(n) in plaintiff's original Complaint and Amended Complaint and demand strict proof thereof at time of trial.

(o) Answering defendants deny the allegations in paragraph IV(o) in plaintiff's original Complaint and Amended Complaint and demand strict proof thereof at time of trial.

(p) Answering defendants deny the allegations in paragraph IV(p) in plaintiff's original Complaint and Amended Complaint and demand strict proof thereof at time of trial.

(q) Answering defendants deny the allegations in paragraph IV(q) in plaintiff's original Complaint and Amended Complaint and demand strict proof thereof at time of trial.

(r) Answering defendants deny the allegations in paragraph IV(r) in plaintiff's original Complaint and Amended Complaint and demand strict proof thereof at time of trial.

(s) Answering defendants deny the allegations in paragraph IV(s) in plaintiff's original Complaint and Amended Complaint and demand strict proof thereof at time of trial.

(t) Answering defendants deny the allegations in paragraph IV(t) in plaintiff's original Complaint and Amended Complaint and demand strict proof thereof at time of trial.

(u) Answering defendants deny the allegations in paragraph IV(u) in plaintiff's original Complaint and Amended Complaint and demand strict proof thereof at time of trial.

WHEREFORE, defendants, Correctional Medical Services, Inc. and Christine Malaney, demand that plaintiff's original Complaint and Amended Complaint be dismissed with prejudice and that judgment be entered in favor of defendants, Correctional Medical Services, Inc. and Christine Malaney, and against plaintiff, together with reasonable attorneys fees, costs and such other relief as the Court may deem appropriate.

#### **FIRST AFFIRMATIVE DEFENSE**

Plaintiff's original Complaint, Amended Complaint and Second Amended Complaint fail to state a claim upon which relief may be granted.

#### **SECOND AFFIRMATIVE DEFENSE**

Plaintiff was not deprived of any civil or constitutional rights or protection by Answering Defendants, Correctional Medical Services, Inc. and Christine Malaney.

#### **THIRD AFFIRMATIVE DEFENSE**

Answering Defendants, Correctional Medical Services, Inc. and Christine Malaney, at all times material to plaintiff's original Complaint, Amended Complaint and Second Amended Complaint, acted in good faith and with the reasonable belief, both objective and subjective, that

their actions were lawful and not in violation of the rights of plaintiff under the Constitution and laws of the United States and/or the State of Delaware.

**FOURTH AFFIRMATIVE DEFENSE**

Answering Defendants, Correctional Medical Services, Inc. and Christine Malaney, at all times material to plaintiff's original Complaint, Amended Complaint and Second Amended Complaint, were not in violation of plaintiff's rights under the United States Constitution, Delaware Constitution or the laws of the United States or the laws of the State of Delaware.

**FIFTH AFFIRMATIVE DEFENSE**

Plaintiff did not experience a deliberate indifference to any of his serious medical needs.

**SIXTH AFFIRMATIVE DEFENSE**

Plaintiff's claims do not rise to the level of deprivation of civil or constitutional rights.

**SEVENTH AFFIRMATIVE DEFENSE**

Answering Defendants, Correctional Medical Services, Inc. and Christine Malaney, did not recklessly, maliciously, willfully, or intentionally commit any wrongful acts or omissions causing injury to the plaintiff and, in the absence of such conduct, there can be no liability on the part of Answering Defendants on the facts of this case.

**EIGHTH AFFIRMATIVE DEFENSE**

Plaintiff received appropriate and competent medical care and treatment during his period of incarceration from Answering Defendants, Correctional Medical Services, Inc. and Christine Malaney.

**NINTH AFFIRMATIVE DEFENSE**

Answering Defendants, Correctional Medical Services, Inc. and Christine Malaney, are entitled to the defense of good faith immunity.

**TENTH AFFIRMATIVE DEFENSE**

Answering Defendants, Correctional Medical Services, Inc. and Christine Malaney, are otherwise entitled to the defense of immunity.

**ELEVENTH AFFIRMATIVE DEFENSE**

Answering Defendants are not responsible for persons, events, circumstances or conditions reasonably beyond their control.

**TWELFTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred or limited by the provisions contained in the United States Civil Rights Act.

**THIRTEENTH AFFIRMATIVE DEFENSE**

Plaintiff has failed to exhaust administrative remedies.

**FOURTEENTH AFFIRMATIVE DEFENSE**

Plaintiff's claims may otherwise be barred by 28 U.S.C.A § 1915

**FIFTEENTH AFFIRMATIVE DEFENSE**

Plaintiff's claims may be barred and/or reduced by the plaintiff's own contributory or comparative negligence.

**SIXTEENTH AFFIRMATIVE DEFENSE**

The plaintiff's injuries, if any, resulted from an intervening and/or superseding cause.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred, in whole or in part, by the applicable statute of limitations.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

Plaintiff's alleged conditions did not constitute a serious medical need.

**NINETEENTH AFFIRMATIVE DEFENSE**

Plaintiff failed to comply with the mandates of 18 Del. C. § 6853.

**TWENTIETH AFFIRMATIVE DEFENSE**

Plaintiff failed to mitigate his alleged injuries and damages.

WHEREFORE, defendants, Correctional Medical Services, Inc. and Christine Malaney, demand that plaintiff's original Complaint and Amended Complaint be dismissed with prejudice and that judgment be entered in favor of defendants, Correctional Medical Services, Inc. and Christine Malaney and against plaintiff, together with reasonable attorneys fees, costs and such other relief as the Court may deem appropriate.

**CROSSCLAIM FOR CONTRIBUTION AND INDEMNITY**

Answering Defendants, Correctional Medical Services, Inc. and Christine Malaney, hereby crossclaim against all co-defendants, and, in denying liability to plaintiff, hereby aver that if there is any liability at all, it is the liability of co-defendants, who are either solely liable to plaintiff, jointly and severally liable, and/or liable to defendants, Correctional Medical Services, Inc. and Christine Malaney, for contribution and/or common law or contractual indemnity on the claims set forth by plaintiff in his original Complaint and Amended Complaint. Answering Defendants, Correctional Medical Services, Inc. and Christine Malaney, also seek a determination of pro rata legal responsibility pursuant to the provisions of Delaware's Uniform Contribution Among Tortfeasors Law, 10 Del. C. § 6301 et seq.

WHEREFORE, defendants, Correctional Medical Services, Inc. and Christine Malaney, hereby demand that judgment be entered in its favor and against co-defendants, together with reasonable attorneys fees and costs and such other relief as the Court deems proper and just.

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

BY: /s/ Kevin J. Connors  
**KEVIN J. CONNORS, ESQ.**  
DE Bar ID: 2135  
**1220 North Market Street, 5<sup>th</sup> Fl.**  
**P.O. Box 8888**  
**Wilmington, DE 19899-8888**  
Attorney for Defendants, Correctional Medical Services,  
Inc. (incorrectly designated as "Correctional Medical  
Systems") and Christine Malaney

DATED: March 29, 2007

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

<b>JAMES W. RILEY,</b> Plaintiff,	)	
<b>v.</b>	)	
<b>STANLEY TAYLOR, THOMAS</b>	)	<b>Civil Action No. 06-001-GMS</b>
<b>CARROLL, DAVID PIERCE, AMY</b>	)	<b>TRIAL BY JURY DEMANDED</b>
<b>MUNSON, MEDICAL ASSISTANT</b>	)	
<b>MALANEY, CORRECTIONAL</b>	)	
<b>MEDICAL SYSTEMS, FIRST</b>	)	
<b>CORRECTIONAL MEDICAL,</b>	)	
<b>Defendants.</b>	)	

## **CERTIFICATE OF SERVICE**

I, KEVIN J. CONNORS, hereby certify that the ANSWER OF DEFENDANTS, CORRECTIONAL MEDICAL SERVICES, INC. (incorrectly designated as "Correctional Medical Systems"), AND CHRISTINE MALANEY, TO PLAINTIFF'S ORIGINAL COMPLAINT, AMENDED COMPLAINT AND SECOND AMENDED COMPLAINT WITH AFFIRMATIVE DEFENSES AND CROSSCLAIM has been served on March 29, 2007 via E-file and US Mail upon the following:

Ophelia Michelle Waters, Esquire  
Department of Justice  
820 N. French Street, 6<sup>th</sup> Floor  
Wilmington, DE 19801

James W. Riley  
#169716  
Delaware Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

BY: /s/ Kevin J. Connors  
KEVIN J. CONNORS, ESQ., DE Bar ID: 2135  
1220 North Market Street, 5<sup>th</sup> Fl.  
P.O. Box 8888  
Wilmington, DE 19899-8888  
Attorney for Defendants, Correctional Medical Services,  
Inc., (incorrectly designated as "Correctional Medical  
Systems") and Christine Malaney

Date: March 29, 2007

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